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In re application of:
Jeffrey Scott Kuskin et al.

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By: *Bobbie Jutras*
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BRIEF ON APPEAL

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This paper is further to the Notice of Appeal dated March 24, 2005, pursuant to which an Appeal Brief is due May 24, 2005. The Commissioner is authorized to charge the fee for filing a brief in support of an appeal in the amount of \$250.00, and any required fee to Pillsbury Winthrop Shaw Pittman LLP's deposit account no. 50-2213 (order no. 073169-0269870).

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BOARD OF PATENT APPEALS
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REAL PARTY IN INTEREST

The real party in interest is Atheros Communications, Inc.

RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences that will directly affect, be directly affected by, or have a bearing on the Board's decision in this appeal.

STATUS OF CLAIMS

Claims 1-37 are pending in the application. Claims 1-37 stand rejected. Claims 1-31 have been rejected two or more times, and claims 32-37 were finally rejected in the final Office Action dated December 29, 2004. The rejection of claims 1-37 is appealed.

STATUS OF AMENDMENTS

No amendments have been filed subsequent to the final rejections in the final Office Action mailed December 29, 2004. A request for reconsideration was filed on February 25, 2005 but was not deemed to place the application in condition for allowance, thus resulting in this Appeal.

SUMMARY OF CLAIMED SUBJECT MATTER

The present invention relates to a Media Access Control (MAC) unit in a telecommunications device, and more particularly to a wireless LAN MAC unit in which certain frame processing functions are implemented in hardware, rather than, as is conventionally done, in software using a central processing unit (CPU) (for example a dedicated MAC unit CPU in a network interface card (NIC)) or the like (see FIG. 1, page 3 lines 4-7, page 5, lines 15-18). As

set forth in the “objects” of the invention: “it is an object of this invention to provide a MAC unit with hardware components for selected time-critical functions. . . . It is a further object to provide a MAC unit that eliminates or substantially reduces the need for a MAC CPU.” (see page 3, lines 9-15).

In particular, the present invention recognizes that certain “time-critical” functions may need to be carried out on the scale of tens of microseconds for proper frame separation, whereas other functions need only be carried out on the scale of milliseconds or even seconds. (see page 6, lines 17-20). In one example, these time-critical frame processing functions include a portion of the frame level protocol manager (FLPM) sub-layer 52 of the MAC layer of frame processing. The particular “time critical” frame processing functions are described in connection with the diagram in FIG. 5, and at page 6, line 21 to page 7, line 16. These “time critical” frame processing functions are mapped to certain hardware blocks in FIG. 6 as described at page 8, line 7 to page 10, line 6.

According to one example of the invention, and as set forth in independent claims 1 and 16, the hardware MAC system is disposed in a communication path between a host CPU 36 and a network 34 (see FIG. 3). In order to implement time-critical MAC layer functions without a CPU and associated software, the hardware MAC unit includes a buffer interface (100) that sends frames to the host CPU (36) and receives frames from the host CPU (36), a frame transmitter that includes a transmit buffer (102) that receives frames from the buffer interface (100) and sends frames to the network (34), and a frame receiver that includes a receive buffer (104) that receives frames from the network (34) and sends frames to the buffer interface (100). (see also page 7, line 17 to page 8, line 6).

In addition, as set forth in claim 1, the hardware MAC unit includes an encryption / decryption block (106) that sends and receives frames between the transmit buffer and the receive buffer. (see page 7, line 23 to page 8, line 1).

As further set forth in claims 3, 10 and 17 (which depend from independent claims 1 and 16), the frame transmitter includes a transmit state machine (108), and the frame receiver includes a receive state machine (110). These components are further useful for performing time-critical MAC layer functions in hardware. (see page 8 lines 9 to 22 for example).

As set forth in claims 4, 11 and 18 (which depend from independent claims 1 and 16), the frame receiver includes a filtering block for filtering frames (110, see page 8, lines 20-22).

As set forth in claims 5, 12 and 19 (which depend from independent claims 1 and 16), the frame receiver includes a retry operations block for determining when retransmission of a particular frame is needed (110, see page 8, lines 9-11 and page 9, lines 1-5).

As set forth in claims 6, 13 and 20 (which depend from independent claims 1 and 16), the frame transmitter includes an acknowledgement block for determining when a frame was anticipated and sending an acknowledgement message corresponding thereto (109, see page 8, lines 18-20 and page 9, lines 1-5).

As set forth in claims 7, 14 and 21 (which depend from independent claims 1 and 16), the frame transmitter includes a special frames generation block (108, see page 9, line 17 to page 10, line 6).

As set forth in claims 8, 15 and 22 (which depend from claims 7, 14 and 21, respectively), the special frames generation block include means for generating beacons (108 and 114, see page 9, line 17 to page 10, line 6).

As further set forth in independent claim 2, MAC layer processing of frames is performed using operations implemented by hardware in an integrated circuit. For example, the hardware frames processing includes time-critical functions 54 of the MAC layer 46 (see FIG. 4, page 5, line 19 to page 6, line 20). As specifically required by claim 2, the time critical functions include: (1) sending an outgoing frame corresponding to the incoming frame to the host (block 82 in FIG. 5); (2) formulating time-critical responses (block 74 of FIG. 5); (3) accumulating statistics (block 76 of FIG. 5); and (4) updating a media access control state (block 78 of FIG. 5). (see also page 7, lines 1 to 16).

As set forth in claims 24 and 25 (which depend from independent claim 2), the time critical functions further include “formulating an outgoing response frame” (block 80 in FIG. 5) and “transmitting the response frame to the network” (block 82 in FIG. 5, see also page 7, lines 10-13).

As set forth in claim 26 (which depends from claim 25), the hardware operations must further include “generating a special frame” (block 84 in FIG. 5, see also page 7, lines 13-14).

As set forth in claim 27 (which depends from claim 26), the hardware operation of generating a special frame includes generating a beacon (block 84, see page 10, lines 1-3).

As set forth in claim 30 (which depends from independent claim 2), the time-critical functions implemented by hardware operations includes determining whether retransmission of a particular frame is needed (blocks 70 and 74 in FIG. 5, see page 8, lines 9-11 and page 9, lines 1-5).

As set forth in claim 31 (which depends from independent claim 2), the hardware operations include determining when a frame was anticipated and sending an acknowledgement

message corresponding thereto (blocks 72 and 74 in FIG. 5; see page 8, lines 18-20, page 9, lines 1-5).

As set forth in claims 32-34 (which depend from claims 1, 16 and 2, respectively), the hardware MAC unit is limited to implementing certain functions of a MAC sublayer in accordance with IEEE 802.11 (see page 1, lines 13-23, and page 5 line 19 to page 6, line 20).

As set forth in claims 35-37 (which depend from claims 1, 16 and 2, respectively), the enumerated frame processing functions and components are implemented together in a single integrated circuit. (see page 10, lines 7-10).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

All claims 1-37 have been finally rejected under 35 U.S.C. § 102(e) as being anticipated by a single prior art reference, U.S. Patent No, 6,341,145 to Hioe et al. ("*Hioe*"). Appellants respectfully submit that these rejections are in error for multiple reasons, and seek review of the following independently reversible grounds:

- Whether *Hioe* discloses a hardware MAC system comprising a frame transmitter that includes a transmit buffer that receives frames from the buffer interface and sends frames to the network, and a frame receiver that includes a receive buffer that receives frames from the network and sends frames to the buffer interface as required by claims 1 and 16.
- Whether *Hioe* discloses a hardware MAC system including an encryption / decryption block that sends and receives frames between the transmit buffer and the receive buffer as required by claim 1.

- Whether *Hioe* discloses a hardware MAC system whose frame transmitter includes a transmit state machine, and whose frame receiver includes a receive state machine as required by claims 3, 10 and 17.
- Whether *Hioe* discloses a hardware MAC system whose frame receiver includes a filtering block for filtering frames as required by claims 4, 11 and 18.
- Whether *Hioe* discloses a hardware MAC system whose frame receiver includes a retry operations block for determining when retransmission of a particular frame is needed as required by claims 5, 12 and 19.
- Whether *Hioe* discloses a hardware MAC system whose frame transmitter includes an acknowledgement block for determining when a frame was anticipated and sending an acknowledgement message corresponding thereto as required by claims 6, 13 and 20.
- Whether *Hioe* discloses a hardware MAC system whose frame transmitter includes a special frames generation block as required by claims 7, 14 and 21.
- Whether *Hioe* discloses a hardware MAC system whose frame transmitter includes a special frames generation block, the special frames generation block including means for generating beacons as required by claims 8, 15 and 22.
- Whether *Hioe* discloses a method for processing frames in a MAC layer using operations implemented by hardware in an integrated circuit, the hardware frames processing including time-critical functions, the time critical functions including: (1) sending an outgoing frame corresponding to the incoming frame to the host; (2) formulating time-critical responses; (3) accumulating statistics; and (4) updating a media access control state, as required by independent claim 2.

- Whether *Hioe* discloses hardware frames processing of time-critical functions in a MAC layer, the time critical functions further including “formulating an outgoing response frame” and “transmitting the response frame to the network” as required by claims 24 and 25.
- Whether *Hioe* discloses hardware frames processing of time-critical functions in a MAC layer, the hardware operations further include “generating a special frame” as set forth in claim 26.
- Whether *Hioe* discloses hardware frames processing of time-critical functions in a MAC layer, the hardware operation of generating a special frame including generating a beacon as required by claim 27.
- Whether *Hioe* discloses hardware frames processing of time-critical functions in a MAC layer, the time-critical functions implemented by hardware operations including determining whether retransmission of a particular frame is needed as set forth in claim 30.
- Whether *Hioe* discloses hardware frames processing of time-critical functions in a MAC layer, the time-critical functions implemented by hardware operations including determining when a frame was anticipated and sending an acknowledgement message corresponding thereto as required by claim 31.
- Whether *Hioe* discloses a hardware MAC system with enumerated blocks and functions that implement certain functions of a MAC sublayer in accordance with IEEE 802.11 as required by claims 32-34.
- Whether *Hioe* discloses implementing the enumerated functions and components of claims 1, 16 and 2 together in a single integrated circuit as set forth in claims 35-37.

ARGUMENT

The bases for the Examiner's rejections using *Hioe* have evolved over time, but now appear to be primarily a combination of various theories of inherency and opinions of what claim limitations are significant enough to be considered. Meanwhile, a cited prior art reference anticipates a claimed invention under 35 U.S.C. §102 only if every element of the claimed invention is identically shown in the single reference, arranged as they are in the claims. MPEP §2131; *In re Bond*, 910 F.2d 831, 832, 15 USPQ 2d 1566, 1567 (Fed. Cir. 1990). Each and every limitation of the claimed invention is significant and must be found in the single cited prior art reference. *In re Donohue*, 766 F.2d 531, 534, 226 USPQ 619, 621 (Fed. Cir. 1985). Where limitations are not explicitly present, "[t]o establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted).

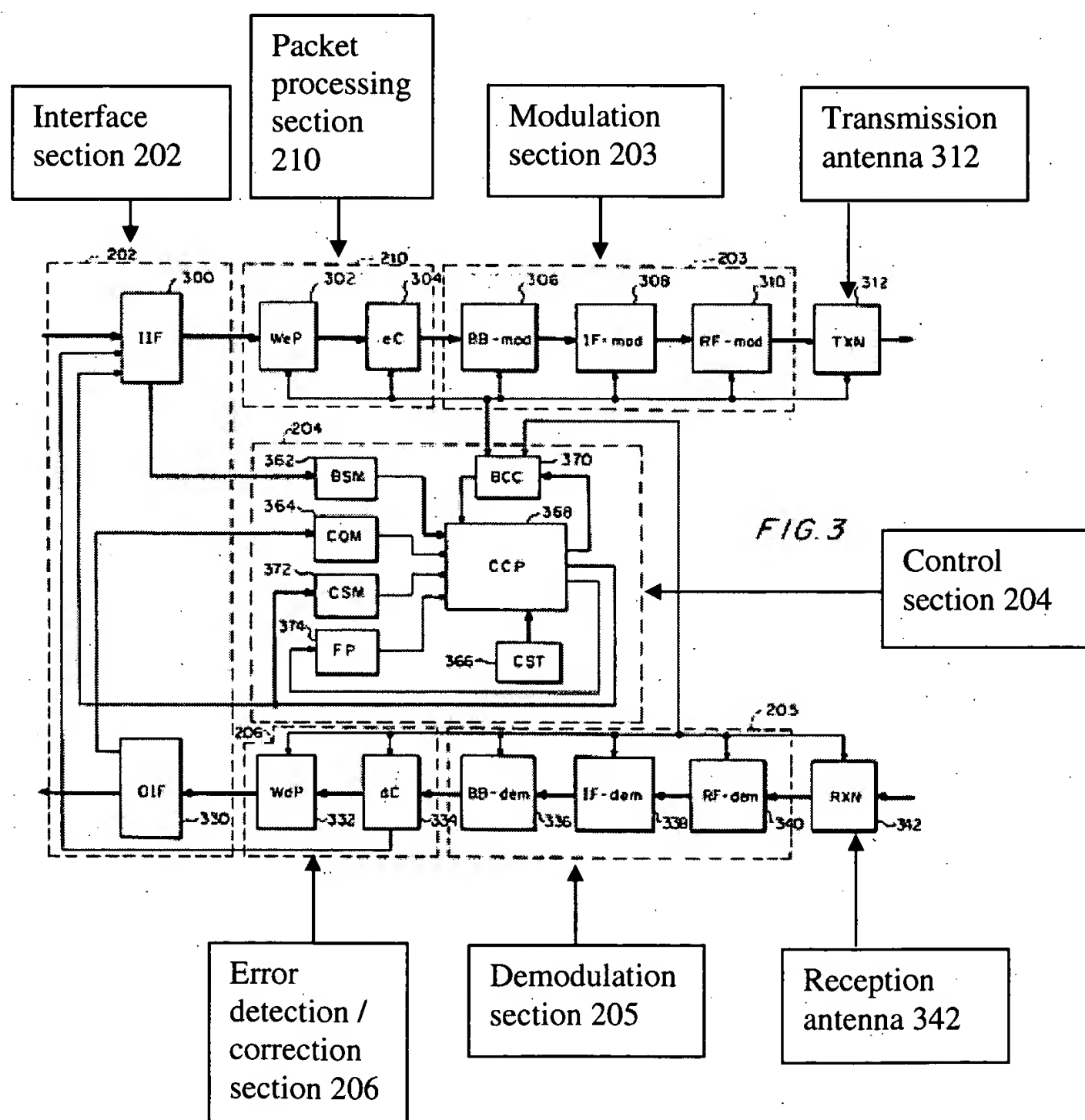
As set forth more fully below, Applicants respectfully traverse the § 102 rejection of the claims because every element of the claimed invention is not identically shown in *Hioe*, and/or arranged as they are required by the claims, and one skilled in the art would not necessarily believe that the missing limitations are inherently present in *Hioe*.

Summary Description Of Single Cited Reference (*Hioe*)

The Office Action relies on only a single prior art reference (*Hioe*) for meeting all the limitations of the pending claims. Accordingly, a thorough summary of this reference is

provided first. It should be noted at the outset, however, that *Hioe* mentions nothing whatsoever about MAC layer processing of frames, or about any known wireless communications protocols such as IEEE 802.11 which specify such required frame processing. Rather, in general, *Hioe* merely discloses a broadband digital radio system, and in particular a terminal for use in such a system. *Hioe* aims at setting a transmission condition for communications between terminals based on a measure of the line quality of the channels being used. (col. 1, lines 7-12).

FIG. 3 illustrates a block diagram of a terminal in accordance with *Hioe*'s teachings and objects. For convenience, FIG. 3 of *Hioe* is reproduced below.



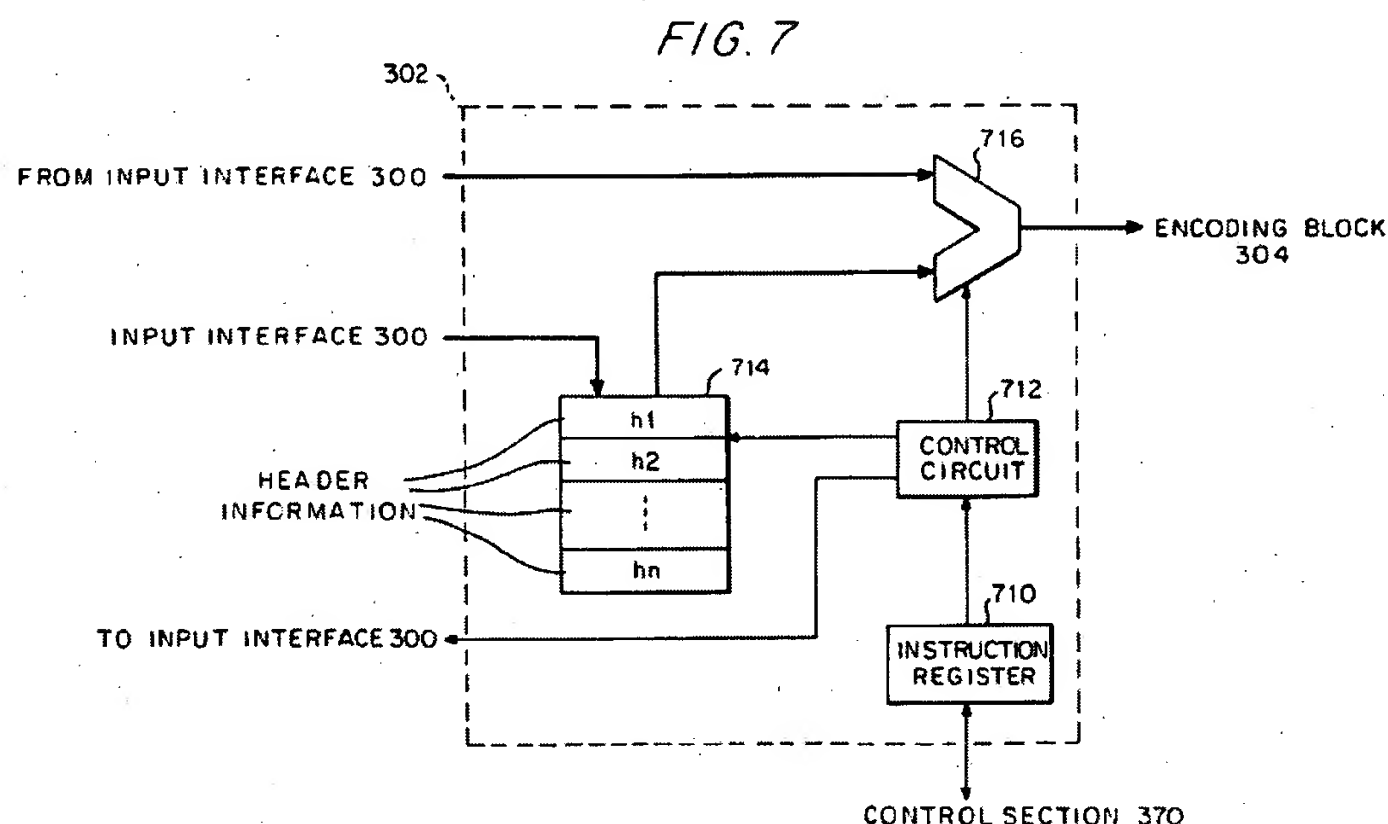
With respect to “transmission side” elements 302-310 of packet processing section 210 and modulation section 203, *Hioe* teaches, at col. 6 line 54 to col. 7 line 9 (emphasis added), that:

In the input interface 300, data are arranged in order of arrival for each category, referring to the header information, and temporarily held. The **data from the input interface 300 is transmitted** to a wireless-packeting block (WeP) 302 from the input interface 300 **at a predetermined timing and incorporated into a packet** for radio transmission. Coding for radio transmission, error control coding, and encryption if necessary are applied to the packeted data by an encoding block (eC) 304. Then, a digital signal is converted into an analog signal by a baseband modulation block (BB-mod) 306 and an analog waveform is generated. The generated analog signal is modulated into an intermediate frequency band by an intermediate frequency modulation block (IF-mod) 308 and at the same time, the frequency components other than the occupied narrow frequency band are suppressed. An intermediate frequency signal is upconverted to a radio frequency by a radio frequency modulation block (RF-mod) 310 where the signal power is amplified up to the transmission level and the frequency components other than the occupied wide frequency band are suppressed. The amplified signal is radiated from a transmission antenna (TXN) 312.

As should be clear, *Hioe*’s elements 302-310 merely receive data **from a buffer** (i.e. input interface 300, the alleged “buffer interface”) at a predetermined timing and convert the data into analog waveforms. Elements 306-310 all produce analog waveforms from digital data. And elements 302 and 304 work with digital data at a predetermined timing and thus do not need or allow for any buffering operation. The overall operation of *Hioe*’s alleged “frame transmitter” is to read data from buffer 300 and propagate it in a serial fashion or “peristaltically” through a transmit chain comprising elements 302-310.

This synchronous and serial transfer of data from buffer 300 through elements 302 and 304 is further underscored by additional disclosures within *Hioe*. For example, FIG. 7

(reproduced below), and corresponding descriptions make clear that even during so-called “processing” or “packetizing” of the data, there is no “buffering” operation performed.



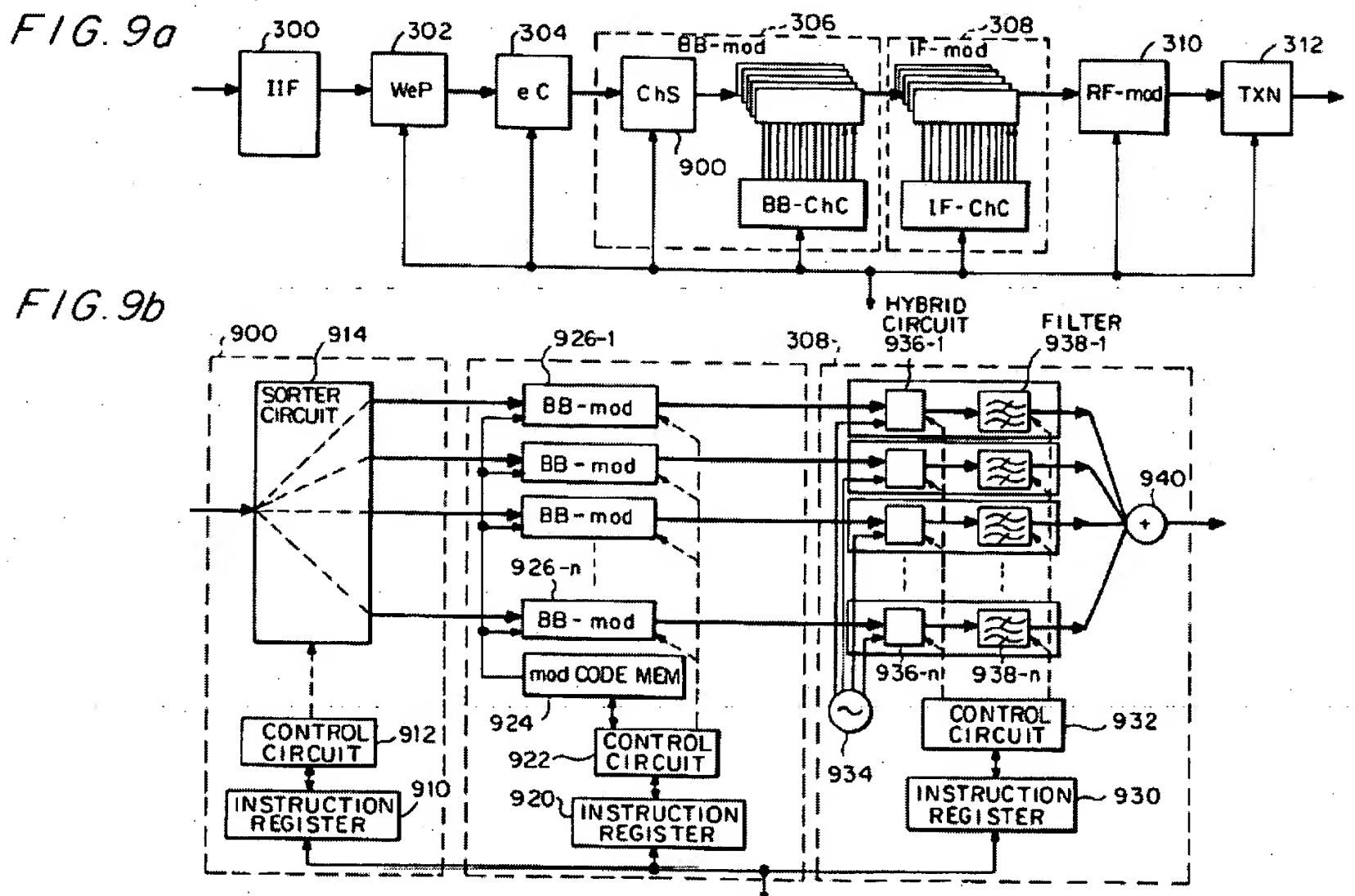
In the corresponding description of FIG. 7, *Hioe* teaches at col. 10, lines 22-42 (emphasis added):

FIG. 7 shows an embodiment of the circuit of the wireless packeting block 302. A header information memory 714 stores the header information for each transmission channel. The header information includes the address of the transmission-side terminal and category of the transmission. The category is used to judge whether or not it is necessary to request retransmission of the received wireless packet when any data error is present in the wireless packet.

An instruction output from the block control circuit 370 of the control section 360 to designate the wireless packet length to each transmission channel is temporarily held in an instruction register 710. A control circuit 712 outputs an instruction of data transmission to the input interface 300, the memory address of the header to the header information memory 714, and a selection signal to a multiplexer 716 in accordance with the instruction of the control instruction register 710. Header information is first output to and then, data is output to the next-stage circuit in accordance with the control by the control circuit 712 **synchronously with a clock signal and thereby, a wireless packet is formed.**

As should be clear from these descriptions, when forming a packet, data is merely shifted from buffer 300 through multiplexer 716 synchronously with a clock signal. Accordingly, there is no need to further buffer the data that is received from buffer 300. In accordance with *Hioe*'s object to account for channel quality, *Hioe* allows for the length of the wireless packet to be changed, which is done by controlling the operation of multiplexer 716 to extract an appropriate amount of data from buffer 300 for the given channel.

No further buffering is required downstream from block 302. This is further underscored by additional teachings in *Hioe*. In particular, *Hioe* makes clear that no buffering of data is required during modulation of the digital data into an analog waveform, as described in connection with the modulation process and FIGs. 9a and 9b (reproduced below).



In connection with these figures, *Hioe* teaches at col. 11, line 56 to col. 12, line 26

(emphasis added):

As described above, it is necessary to simultaneously execute the operations of the baseband modulation block 306 for executing analog-signal processing and the intermediate frequency modulation block 308 which are provided correspondingly to a narrowband channel. FIG. 9A schematically shows the transmission unit of FIG. 3, where the analog modulation section is shown in more detail. **The baseband modulation block 306 is provided with a sorter (ChS) 900, namely a series/parallel converter circuit, in order to transmit the data corresponding to each transmission channel in parallel.** Wireless packets are arranged for each transmission channel by the sorter 900. **Each transmission channel is synchronously input to a baseband demodulator corresponding to each transmission channel from the sorter 900 and thereby, converted into an analog signal in parallel and modulated to a high frequency.**

FIG. 9B is a block diagram of a circuit for executing modulation. In the sorter 900, a control circuit 912 controls a sorter circuit 914 and performs classification of wireless packets and the conversion from series to parallel in accordance with an instruction output from the block control circuit 370 of the control section 360 and stored in a channel control register 910. **The output of the sorter circuit 914 is input to baseband modulation (BB-mod) circuits 926-1 to 926-n and converted into an analog signal by using a modulation code read out of a modulation code memory (mod code mem) 924 and thereby executing digital-analog conversion.**

Then, the analog signal is converted into a signal in an intermediate frequency band by the intermediate frequency modulation circuit block 308. The analog signal output from the baseband modulation circuit is modulated to an intermediate frequency in a narrow intermediate frequency band by a series circuit of a hybrid circuit 936 and a band-pass filter 938 in accordance with a local oscillation signal output by a multiple-frequency local oscillator 934. The outputs of the series circuits are combined by a power combiner circuit 940 and output to the radio frequency modulation block 310.

From these descriptions, it is clear that serial data from packeting block 302 and error correction block 304, which includes packets for all channels in one continuous serial stream, is merely demultiplexed into channels by channel sorter 900 so that modulation of carriers for each channel can occur in parallel. This operation is performed “synchronously” according to clocks and signals from control circuit 912, thus reinforcing the “peristaltic” nature of the system. The

sorter 900 does not itself create parallel words, rather it transmits bits serially to different modulators in a parallel fashion. A plurality of bits for a given channel is then used by the individual channel modulators 926-1 to 926-n to lookup a code for performing the appropriate digital-to-analog conversion of the digital data, thus performing baseband modulation (e.g. a form of pulse code modulation).

Hioe does not provide any significant additional detail regarding the “receive-side” blocks or operation thereof, so it can be assumed that it merely provides an inverse operation of the “transmit-side” blocks.

***Hioe* Does Not Explicitly or Inherently Include a Transmit Buffer or Receive Buffer As Required By Independent Claims 1 and 16**

Independent claims 1 and 16 both require:

a buffer interface that sends frames to the host central processing unit and receives frames from the host central processing unit;

a frame transmitter **that includes a transmit buffer that receives frames** from the buffer interface and sends frames to the network;

a frame receiver **that includes a receive buffer that receives frames** from the network and sends frames to the buffer interface . .

In the first Office Action mailed May 19, 2004, the Examiner stated that *Hioe*’s block 203 corresponded to the claimed frame transmitter, and that elements 306-310 corresponded to the claimed transmit buffer. The first Office Action also stated that *Hioe*’s block 205 corresponded to the claimed frame receiver, and that elements 336-340 corresponded to the claimed receive buffer. (Office Action at 4.) The Office Action made no mention of any reliance on any theory of inherency.

After Applicants showed how this position was incorrect without amending the claim, the Examiner revised the rejection to state that *Hioe*'s blocks 203 and 210 or (302-303) [sic] together "clearly" corresponded to the claimed frame transmitter, with elements 302 and 304 corresponding to the claimed transmit buffer. The Examiner further revised the rejection to state that *Hioe*'s blocks 205 and 206 "clearly" correspond to the claimed frame receiver, with elements 332 and 334 together comprising the claimed receive buffer. (Final Office Action at 12-13). The Final Office Action also made no reference to any theory of inherency, taking the position that these limitations were "clearly" anticipated by *Hioe*.

In response to the Final Office Action, Appellants again convincingly showed that none of the asserted elements 302, 304, 332 or 334 could be considered a "buffer." Rather than withdrawing the rejection, in remarks accompanying the Advisory Action, the Examiner yet again revised the grounds for the rejection, and for the first time stated a theory of inherency.¹ The final revised ground for rejection (see Advisory Action at 3, emphasis added) is that

WeP 302 or BB-mod-306 can be corresponded to the claimed 'transmit buffer' **because at WeP 302, the received packet must be buffered** before incorporating (adding packet header or necessary information for routing or transmitting as known packeting processing art) and **because at BB-mod 306, in order to convert a digital signal into an analog signal, the digital signal must be implicitly buffered**, then converted into an analog waveform. This is an **implicit or inherent** function of a baseband modulator in a telecommunication system (see Fig. 9a and the corresponding description at col. 11, line 60 to col. 12, line 4 for an explanation of sorter (ChS) 900).

¹ Appellants object to the untimely inclusion of this new ground of rejection after Appellants' response to the final office action, and do not believe it can be properly considered without reopening prosecution (see MPEP 2112). Nevertheless, for completeness, this new ground will be addressed here. Appellants also understand this new ground as a final admission by the Examiner that neither of the claimed buffers are **explicitly** present in *Hioe*.

Addressing this final revised ground for rejection, Appellants respectfully submit that neither *Hioe*'s wireless packeting block WeP 302 nor baseband modulator block 306 inherently include a "transmit buffer" as required by independent claims 1 and 16.

"To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. . . .'" *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted). As set forth in the summary description of *Hioe*'s teachings, no buffer is needed (i.e. not necessarily present) in blocks WeP 302 or 306. More particularly, by operating at a predetermined synchronous timing in which data moves peristaltically or serially through *Hioe*'s transmit chain, one skilled in the art would recognize that the data for the wireless packets is not necessarily buffered either in WeP 302 or BB-mod 306.²

First, with respect to block WeP 302, FIG. 7 of *Hioe* and the associated descriptions make clear that data from buffer 300 is synchronously clocked into a serial stream by multiplexer 716, which operates under control of control circuit 712 to form a wireless packet of appropriate length as a string of serial bits, and to serially append header information thereto. Nowhere does *Hioe* disclose or suggest that the data from buffer 300 is further buffered in block WeP 302, and such a suggestion would be counterintuitive to the "synchronous" nature of the data flow described by *Hioe*. Accordingly, one skilled in the art would not consider a buffer to be necessarily present in WeP block 302.

² Although not necessary to define over *Hioe*, Appellants note that the clear language of the claims requires the buffers in both the receiver and transmitter to be capable of storing frames.

With respect to block BB-mod 306, FIGs. 9a and 9b of *Hioe* and the associated descriptions further underscore the synchronous and peristaltic operation of the transmit chain. The grounds for rejection stated in the Advisory Action appears to assert that before modulation can occur, data modulating the signal must be buffered. However, *Hioe* merely teaches that this block performs a lookup of a code in code memory 924 to perform digital-to-analog conversion (i.e. a form of pulse code modulation). One skilled in the art would not consider a D-A converter or its associated input to be a buffer. Moreover, all that would be required to perform such a lookup operation would be to latch a predetermined set of bits of the data at an input of the D-A converter or lookup table. Such a latch operation would not be considered equivalent to a buffer by those skilled in the art.

The same reasoning above with respect to the claimed transmit buffer also applies to the claimed receive buffer, and so *Hioe* also fails to expressly or inherently a **receive buffer** as required by the claims.

For at least these reasons, Appellants submit that claims 1 and 16 patentably define over *Hioe* and the § 102 rejection of these claims, as well as claims 3-15, 32 and 35 that depend from claim 1, and claims 17-23, 33 and 36 that depend from 16, should be withdrawn.

***Hioe* Does Not Explicitly or Inherently Include an Encryption/Decryption Block As Further Required By Independent Claim 1**

In addition to the missing subject matter that is common with claim 16 as set forth above, claim 1 requires an **encryption / decryption block** that “sends and receives frames **between the transmit buffer and the receive buffer.**”

This subject matter is not taught or suggested by *Hioe*, at least because *Hioe* does not disclose or suggest a transmit buffer or receive buffer as required by the explicit limitations of claim 1. Specifically, *Hioe*'s encryption block 304 (part of the alleged "encryption/decryption block") receives data from WeP block 302 and sends data to BB-mod block 306, neither of which would be considered a **buffer** by those skilled in the art. Decryption block 334 receives data from BB-dem block 336 and sends data to WdP block 332, neither of which would be considered a **buffer** by those skilled in the art.³ Accordingly, *Hioe* cannot possibly include an encryption / decryption block that "sends and receives frames **between the transmit buffer and the receive buffer.**"

Moreover, the Office Action alleges that elements 304 and 334 together comprise the claimed encryption/decryption block. However, there is no **single element** in *Hioe* that both **encrypts and decrypts** frames. Rather, *Hioe* teaches **separate** blocks 304 and 334 for encryption and decryption, respectively. Accordingly, *Hioe* does not explicitly meet the limitations of the claims.

The Final Office Action did not supply any theory or attempt to base this rejection on inherency. However, the Advisory Action appears to set forth a new theory.⁴ The Advisory Action states (at 4) that:

Figure 3 is just a mere functional blocks of the disclosed system for easy understanding. In a real telecommunications system, the encryption/decryption device is a single piece of equipment having cards for performing encrypting the

³ Moreover, neither of these blocks inherently includes a buffer for reasons set forth above.

⁴ For similar reasons to those set forth above, Appellants object to the untimely introduction for a new grounds of rejection and respectfully submit that these new grounds for rejection should not be considered. Nevertheless, for completeness, this newly revised grounds for rejection will be addressed here.

received data in the transmission side and cards for performing decrypting the received data in the reception side. This conclusion is from Examiner's own experience while serving more than six year as SATCOM technician and/or Krypto specialist in the US Army dealing with uploading and maintaining encryption/decryption device (KG-194 or KG-81) in a tactical satellite communication system (AN-GSC 86). There are different type of Krypto devices. However, the functional structures and operational principles are the same. Thus, contradistinction to the Applicants' argument Hioe et al. does indeed disclose the disputed limitations.

It is not clear from this new grounds whether it is intended to set forth a theory of inherency or a theory of obviousness. If the latter, Appellants respectfully object that the prior art on which it is based has not been made of record. If the former, Appellants respectfully submit that it proves nothing about what is necessarily included in *Hioe*'s system, which would be required to support a theory of inherency. In a transceiver system having both transmission and reception components, it may be indeed possible to combine certain of such separate components into single blocks for efficiency or other reasons. However, those skilled in the art know that it is not necessary, and there may be very practical considerations why such combination cannot be done. Indeed, the Examiner's cited KG-194 WALBURN-class trunk cryptologic equipment also provides separate encryption and decryption modules which operate independently and contemporaneously to afford high data rate full-duplex communication. The Examiner's own experience thus demonstrates that one skilled in the art would not consider *Hioe* to necessarily combine encryption and decryption components into a single block.

Accordingly, independent claim 1 further patentably defines over *Hioe* for at least this additional reason, and the § 102 rejection of the claim should be withdrawn.

Hioe Does Not Disclose Implementing Time-Critical Processing Functions Using Hardware Operations As Required By Independent Claim 2

Independent claim 2 requires

processing, **using operations implemented by hardware in an integrated circuit**, the **incoming frame for time-critical functions**, the time critical functions including:

sending an outgoing frame corresponding to the incoming frame to the host;

formulating time-critical responses;

accumulating statistics; and

updating a media access control state.

Independent claim 2 requires that the method include **specifically enumerated** time-critical functions that are **implemented as hardware operations in an integrated circuit**. In contrast to the explicit requirements of independent claim 2, the Final Office Action relies on passages of *Hioe* that describe operations of a “channel control processor” (CCP) 368, which operations are clearly software executing on a processor, not as hardware operations in an integrated circuit.⁵

Moreover, independent claim 2 sets forth enumerated **processing functions** for an **incoming frame**. Meanwhile, the cited operations of *Hioe* merely relate to determining line transmission conditions according to various status information and controlling the transmission unit in accordance therewith. Specifically, the cited passages teach as follows (col. 7, lines 35-58) (emphasis added), with the claim limitations they are alleged to meet in brackets:

⁵ The Advisory Action states that “Hioe et al patent implicitly and inherently anticipated this claimed limitation.” (page 4) However, the Examiner has never supplied any theory of inherency, and even if it had been done with the Advisory Action, such untimely-introduced theory should not be considered.

[formulating time-critical responses]

The control section 360 will be described as follows.

The information of the data stored in the input interface 300 is recorded in an input buffer status memory (BSM) 362. **A channel control processor (CCP) 368 can recognize a necessary communication demand from the presence or absence of the data stored in the input interface 300 for each transmission condition category by reading data from the input buffer status memory 362.**

[accumulating statistics]

The latest line-quality information is included in the control information transmitted from the communication party through the control channel 208. The line-quality information is extracted from the control information by the output interface 330 and recorded in the line quality memory (CQM) 364. An algorithm for determining the transmission channels and transmission conditions, which will be described later, is stored in a channel setting rule memory (CST) 366.

[updating a media access control state]

The channel control processor 368 determines transmission conditions based on the communication demand stored in the input buffer status memory 362 and the information on the line quality stored in the line quality memory 364 in accordance with the channel setting rules stored in the channel setting rule memory 366. A block control circuit (BCC) 370 controls the transmission unit in accordance with the determined transmission conditions.

Hioe teaches nothing about processing of incoming frames within control section 360, much less the required steps of :

1. sending an outgoing frame corresponding to the incoming frame to the host;
2. formulating time-critical responses;
3. accumulating statistics; and
4. updating a media access control state.

Because *Hioe* does not teach, and in fact teaches away from, the invention required in independent claim 2, including the explicit limitation of performing time-critical functions **for processing an incoming frame** that are **implemented as hardware operations in an**

integrated circuit, the § 102 rejection of this claim, along with claims 24-31 that depend therefrom, should be withdrawn.⁶

Hioe Does Not Disclose A Transmit or Receive State Machine As Required By Dependent Claims 3, 10 and 17

Claims 3 and 10 depend from independent claim 1 and claim 17 depends from independent claim 16. These claims patentably define over *Hioe* at least by virtue of their dependence on claims 1 and 16 for the reasons set forth above. Moreover, each of these claims recite additional subject matter that further patentably distinguish them from *Hioe*.

The Office Action alleges that the claimed frame transmitter is allegedly met by packet processing section 210 and modulation section 203, and the claimed frame receiver is allegedly met by error detection/correction section 206 and demodulation section 205. Meanwhile, each of these claims further limit the structure of the claimed frame transmitter and receiver to even further distinguish them from *Hioe*'s structure.

Specifically, claims 3, 10 and 17 require that the frame transmitter includes a **transmit state machine**, and the frame receiver includes a **receive state machine**. The Office Action alleges that these elements are met by transmit antenna 312 and reception antenna 342,

⁶ The Final Office Action takes the completely irrelevant position (page 14) that "the specification does not disclose [that this limitation] is a novel and unobvious feature." Appellants respectfully submit that a rejection based on § 102 requires a comparison between the express limitations of the claim to the cited reference. If a limitation is not found in the reference, the rejection is improper and should be withdrawn. All claim limitations must be considered regardless of any conjecture about what the specification opines or does not opine about their novelty. In any event, quite contrary to the Office Action's allegation, the application repeatedly refers to the hardware implementation of time-critical functions as an important feature and object of the invention. See, for example, the specification passages cited in the summary above, as well as the very **title** of the invention: **HARDWARE MAC**.

respectively, neither of which are in the alleged frame transmitter or receiver. Moreover, it is submitted that one skilled in the art would not consider an antenna to be equivalent to a state machine.

For at least these additional reasons, claims 3, 10 and 17 further patentably define over *Hioe* and the rejections thereof should be withdrawn.

Hioe Does Not Disclose A Frame Filtering Block In a Frame Receiver As Required By Dependent Claims 4, 11 and 18

Claims 4 and 11 depend from independent claim 1 and claim 18 depends from independent claim 16. These claims patentably define over *Hioe* at least by virtue of their dependence on claims 1 and 16 for reasons set forth above. Moreover, each of these claims recite additional subject matter that further patentably distinguish them from *Hioe*.

The Office Action alleges that the claimed frame receiver is allegedly met by error detection/correction section 206 and demodulation section 205. Meanwhile, each of these claims further limit the structure of the claimed frame receiver to even further distinguish them from *Hioe*'s structure.

Specifically, claims 4, 11 and 18 require that the frame receiver includes a filtering block for filtering frames. The Office Action alleges that *Hioe*'s band-pass filters 1038 correspond to the claimed filtering block. However, these filters are described as being part of IF-dem block 338, and clearly operate to limit an analog signal to a particular pass-band, and as such do not know or care about frames, and thus cannot filter such.

The Advisory Action admits (at page 6) that "It is undisputed that the signals are filtered in analog forms [in *Hioe*'s system]." The Advisory Action continues:

However, the filtered signals are converted into digital signals (frames). . . . In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies in the arguments are not recited in the rejected claim(s).

This argument is unsound, because by logical extension any analog filter in a wireless communication path would similarly "filter frames." To the contrary, the clear language of the claim requires the filter to operate on frames, and not any portions or representations thereof. Claims 4, 11 and 18 further limit independent claims 1 and 16, and require that the claimed filtering block is part of the claimed "frame receiver" that "receives frames from the network and sends frames to the buffer interface" as set forth in claims 1 and 16. The input of the receiver is a frame and the output is a frame, and in the process the frames are filtered. Accordingly, by mere operation, the filter must operate on frames. One skilled in the art would not consider an analog filter to be a frame filter.

For at least these additional reasons, claims 4, 11 and 18 further patentably define over *Hioe* and the rejections thereof should be withdrawn.

***Hioe* Does Not Disclose A Retry Operations Block In A Frame Receiver As Required By Dependent Claims 5, 12 and 19**

Claims 5 and 12 depend from independent claim 1 and claim 19 depends from independent claim 16. These claims patentably define over *Hioe* at least by virtue of their dependence on claims 1 and 16 for reasons set forth above. Moreover, each of these claims recite additional subject matter that further patentably distinguish them from *Hioe*.

The Office Action alleges that the claimed frame receiver is allegedly met by error detection/correction section 206 and demodulation section 205. Meanwhile, each of these claims further limit the structure of the claimed frame receiver to even further distinguish them from *Hioe's* structure.

Specifically, claims 5, 12 and 19 require that the frame receiver includes a **retry operations block** for determining when retransmission of a particular frame is needed. The Office Action points to col. 9, lines 41-62, and col. 10, lines 23-30, which refer to operations of **control section 360 and wireless packeting block 302**, not the alleged frame receiver (demodulation block 205 and error detection/correction block 206). Accordingly, even if, *arguendo*, these operations correspond to the claimed retry operations block, they are not included in the alleged frame receiver, and thus do not meet the explicit requirements of the claims for this reason alone.

Moreover, col. 9, lines 41-62 merely describe software operations for controlling packet length, not for determining whether retransmission of a particular frame is needed. Also, col. 10, lines 23-30, merely describe adding header information to a packet, and not determining whether retransmission of a particular frame is needed. Accordingly, even if, *arguendo*, these software operations could be considered part of a “frame receiver,” they would not meet the explicit limitations of the claims.

The Advisory Action introduced a new line of argument, theorizing at page 7 that

[t]here are limited ways to combat advert situations such as packet loss or error in wireless packet communications. The known ways are automatic retransmission request (ARQ), forward error correction (FEC) and the combination of ARQ and FEC. Hioe et al patent discloses all known ways at col. 9, lines 41-62 and col. 10, lines 23-30. Control circuit 370 of the control section 360 is responsible for combating advert situations to include request retransmission of the received

wireless packet when any data error is present in the wireless packet (col. 10, lines 23-30 and thereafter).

None of the cited passages supports this new argument. On the contrary, *Hioe*'s control section 360 and control circuit 370 merely monitor line status and adjust transmission conditions in accordance with line conditions. It uses three techniques to account for line conditions: (1) control of error correction code (col. 8, line 31); (2) control of wireless packet length (col. 9, line 41); and (3) control of aerial path (col. 10, line 48). None of these techniques involves the control section or control circuit actually making a determination of whether retransmission of a particular frame is needed (these passages have been thoroughly reviewed, and they make no mention of ARQ). This determination might be done in *Hioe*'s system by end data terminals, but nowhere does *Hioe* suggest that this is done by software in either control section 360 or circuit 370.

For at least these additional reasons, claims 5, 12 and 19 further patentably define over *Hioe* and the rejections thereof should be withdrawn.

***Hioe* Does Not Disclose An Acknowledgement Block In A Frame Transmitter As Required By Dependent Claims 6, 13 and 20**

Claims 6 and 13 depend from independent claim 1 and claim 20 depends from independent claim 16. These claims patentably define over *Hioe* at least by virtue of their dependence on claims 1 and 16 for reasons set forth above. Moreover, each of these claims recite additional subject matter that further patentably distinguish them from *Hioe*.

The Office Action alleges that the claimed frame transmitter is allegedly met by packet processing section 210 and modulation section 203. Meanwhile, each of these claims further

limit the structure of the claimed frame transmitter to even further distinguish them from *Hioe*'s structure.

Specifically, claims 6, 13 and 20 require that the frame transmitter includes an **acknowledgement block for determining when a frame was anticipated and sending an acknowledgement message corresponding thereto**. The Office Action points to col. 5, lines 63-66, which refer to operations of control section 204a, not the alleged frame transmitter (modulation block 203). Accordingly, even if, *arguendo*, these operations correspond to the claimed acknowledgement block, they are not included in the alleged frame transmitter, and thus do not meet the explicit requirements of the claims.

Moreover, col. 5, lines 63-66 merely suggest sending a **test signal** for supervising line quality, and teaches nothing about sending an **acknowledgement message corresponding to reception of an anticipated frame**, as explicitly required by the claims. Accordingly, even if, *arguendo*, these software operations could be considered part of the frame transmitter, they would not meet the further explicit limitations of the claims.

The Advisory Action (at page 7) responds only to this last point by stating:

At col. 5, lines 63-66, Hioe et al discloses a feedback loop for cyclically supervising the line quality is formed by transmitting data and a test signal and returning error rate information of the transmitted data corresponding to the claimed limitation.

However, this passage relates only to *Hioe*'s operation of monitoring a control channel and changing transmission conditions in accordance with line quality. There is no acknowledgment message sent in connection with the test data or signal. It is just used by the control section 204a to adjust the transmission conditions (e.g. data rate, error control method

and/or size of wireless packet). Moreover, this position is still inconsistent with the claims which require the acknowledgment block to be part of the frame transmitter (which the Office Action alleges is met by blocks 203 and 210, not control section 204a).

For at least these additional reasons, claims 6, 13 and 20 further patentably define over *Hioe* and the rejections thereof should be withdrawn.

Hioe Does Not Disclose A Special Frames Generation Block In A Frame Transmitter As Required By Dependent Claims 7, 14 and 21

Claims 7 and 14 depend from independent claim 1 and claim 21 depends from independent claim 16. These claims patentably define over *Hioe* at least by virtue of their dependence on claims 1 and 16 for reasons set forth above. Moreover, each of these claims recite additional subject matter that further patentably distinguish them from *Hioe*.

The Office Action alleges that the claimed frame transmitter is allegedly met by packet processing section 210 and modulation section 203. Meanwhile, each of these claims further limit the structure of the claimed frame transmitter to even further distinguish them from *Hioe*'s structure.

Claims 7, 14 and 21 require that the frame transmitter includes a special frames generation block. The Office Action merely points to FIGs. 9A and 9B, which depict the **modulation block 203** in detail. Neither of these figures includes any element called a "special frames generation block." In fact, this would be unusual, because FIGs. 9A and 9B merely form modulated **analog waveforms** based on received data and do not generate frames at all. Accordingly, there is no evidence that *Hioe*'s modulation block 203 includes a special frames generation block, much less one that meets the explicit requirements of the claims.

In response to this convincing argument, the Advisory Action stated (at page 8):

Modulation block 203 is corresponding to the claimed limitation in the present condition because the claimed limitation of ‘a special frames generation block’ given the broadest reasonable interpretation in consisting with the specification is ‘a frame generation block’ corresponding to sorter 900 inside baseband modulation block 306 arranged wireless packet for transmission as disclosed at col. 11, lines 60-67 and thereafter.

As discussed above, sorter 900 merely demultiplexes the serial digital data stream into different channels before digital-to-analog conversion. One skilled in the art would not consider a demultiplexer to correspond to a frame generator, no matter how broadly the term “frame generation block” is interpreted, and so this position is unreasonable.

For at least these additional reasons, claims 7, 14 and 21 further patentably define over *Hioe* and the rejections thereof should be withdrawn.

Hioe Does Not Disclose A Means For Generating Beacons In A Special Frames Generation Block As Required By Dependent Claims 8, 15 and 22

Claims 8, 15 and 22 depend from claims 7, 14 and 21, respectively. These claims patentably define over *Hioe* at least by virtue of their dependence on claims 7, 14 and 21 for reasons set forth above. Moreover, each of these claims recite additional subject matter that further patentably distinguish them from *Hioe*.

The Office Action alleges that the claimed “special frames generation block” is allegedly met by unspecified portions of modulation section 203 depicted in Figures 9A and 9B. Meanwhile, each of these claims further limit the structure of the claimed frame transmitter to even further distinguish them from *Hioe*’s structure.

Specifically, claims 8, 15 and 22 further require that the special frames generation block include means for generating beacons. The Office Action apparently takes the position that this subject matter is inherent in *Hioe*'s CDMA or TDMA system. However, there is no teaching of a special frames generation block in modulation section 203 at all, much less one that includes a means for generating beacons.⁷ Accordingly, there is no evidence that *Hioe*'s modulation block 203 includes a special frames generation block, much less one that includes means for generating beacons as explicitly required by the claims.

For at least these additional reasons, claims 8, 15 and 22 further patentably define over *Hioe* and the rejections thereof should be withdrawn.

***Hioe* Does Not Disclose Hardware Operations For Formulating An Outgoing Response Frame As Required By Dependent Claim 24 and 25**

Claims 24 and 25 depend from independent claim 2, and so patentably define over *Hioe* at least by virtue of their dependence on claim 2 for reasons set forth above. Moreover, these claims recite additional subject matter that further patentably distinguish them from *Hioe*.

Specifically, claims 24 and 25 further require steps of “formulating an outgoing response frame” and “transmitting the response frame to the network.” The Office Action vaguely points to col. 7, lines 35-42 (“and thereafter”) as allegedly meeting these limitations.

However, these passages merely describe operation of control section 360 to determine line quality and transmission conditions. This is then used to adjust a transmission rate and/or error correction processing. There is no teaching or suggestion that control section 360 is able to

⁷ In particular, there is no “beacon generator” in channel sorter 900, which the Advisory Action alleges is the claimed special frames generation block.

formulate an outgoing response frame or transmit the response frame to the network, much less that these operations are implemented in hardware as required by claims 24 and 25.

For at least these additional reasons, claims 24 and 25 further patentably define over *Hioe* and the rejections thereof should be withdrawn.

Hioe Does Not Disclose Hardware Operations For Generating A Special Frame As Required By Dependent Claim 26

Claim 26 depends from claim 25 which has been shown above to patentably define over *Hioe* at least because *Hioe* does not disclose hardware operations for formulating and transmitting an outgoing response frame. Accordingly, claim 26 is patentable for at least this reason.

Claim 26 further requires that the hardware operations include “generating a special frame.” The Office Action merely points to FIGs. 9A and 9B, which depict the modulation block 203 in detail. Neither of these figures includes any element called a “special frames generation block.” In fact, this would be unusual, because FIGs. 9A and 9B merely form modulated analog waveforms based on received data and do not generate frames at all. Accordingly, there is no evidence that *Hioe*’s modulation block 203 includes a special frames generation block, much less one that meets the explicit requirements of the claims.

In response to this convincing argument, the Advisory Action stated (at page 8):

Modulation block 203 is corresponding to the claimed limitation in the present condition because the claimed limitation of ‘a special frames generation block’ given the broadest reasonable interpretation in consisting with the specification is ‘a frame generation block’ corresponding to sorter 900 inside baseband modulation block 306 arranged wireless packet for transmission as disclosed at col. 11, lines 60-67 and thereafter.

As discussed above, sorter 900 merely demultiplexes the serial digital data stream into different channels before digital-to-analog conversion. One skilled in the art would not consider a demultiplexer to correspond to a frame generator, no matter how broadly the term “frame generation block” is interpreted, and so this position is unreasonable.

For at least these additional reasons, claim 26 further patentably defines over *Hioe* and the rejection thereof should be withdrawn.

***Hioe* Does Not Disclose Hardware Operations For Generating Beacons Included In A Special Frame As Required By Dependent Claim 27**

Claim 27 depends from claim 26, which has been shown above to patentably define over *Hioe* at least because *Hioe* does not disclose hardware operations for generating a special frame. Accordingly, claim 27 is patentable for at least this reason.

Moreover, claim 27 further requires that the hardware operation of generating a special frame includes generating a beacon. The Office Action apparently takes the position that this subject matter is inherent in *Hioe*’s CDMA or TDMA system. However, there is no teaching of a special frames generation block in modulation section 203 at all, much less one that includes a means for generating beacons.⁸ Accordingly, there is no evidence that *Hioe*’s modulation block 203 includes a special frames generation block, much less one that includes means for generating a beacon as explicitly required by the claims.

For at least these additional reasons, claim 27 further patentably defines over *Hioe* and the rejection thereof should be withdrawn.

⁸ In particular, there is no “beacon generator” in channel sorter 900, which the Advisory Action alleges is the claimed special frames generation block.

Hioe Does Not Disclose Hardware Operations For Determining Whether Retransmission Is Needed As Required By Dependent Claim 30

Claim 30 depends from independent claim 2, and so patentably defines over *Hioe* at least by virtue of its dependence on claim 2, and the reasons set forth above in connection with claim 2.

Moreover, claim 30 requires that the time-critical functions implemented by hardware operations includes **determining whether retransmission of a particular frame is needed**.

The Office Action points to col. 9, lines 41-62, and col. 10, lines 23-30 as allegedly meeting this limitation. However, col. 9, lines 41-62 merely describe software operations for controlling packet length, not for determining whether retransmission of a particular frame is needed. Also, col. 10, lines 23-30, merely describe adding header information to a packet, and not for performing the **actual** determination of whether retransmission of a particular frame is needed.

The Advisory Action introduced a new line of argument, theorizing at page 7 that

[t]here are limited ways to combat advert situations such as packet loss or error in wireless packet communications. The known ways are automatic retransmission request (ARQ), forward error correction (FEC) and the combination of ARQ and FEC. Hioe et al patent discloses all known ways at col. 9, lines 41-62 and col. 10, lines 23-30. Control circuit 370 of the control section 360 is responsible for combating advert situations to include request retransmission of the received wireless packet when any data error is present in the wireless packet (col. 10, lines 23-30 and thereafter).

None of the cited passages supports a rejection based on this new argument. On the contrary, *Hioe*'s control section 360 and control circuit 370 merely monitor line status and adjust transmission conditions in accordance with line conditions. It uses three techniques to account for line conditions: (1) control of error correction code (col. 8, line 31); (2) control of wireless

packet length (col. 9, line 41); and (3) control of aerial path (col. 10, line 48). None of these techniques involves the control section or control circuit actually making a determination of whether retransmission of a particular frame is needed (moreover, these passages have been thoroughly reviewed, and they make no mention of ARQ). Determining and requesting retransmission of data might be done in *Hioe*'s system by the end data terminals, but nowhere does *Hioe* suggest that this is done by software in either control section 360 or circuit 370, as would be required to at least initially support a rejection of claim 30 (though such operations would still be implemented in software, rather than hardware as required by the claim).

For at least these additional reasons, claim 30 further patentably defines over *Hioe* and the rejections thereof should be withdrawn.

***Hioe* Does Not Disclose Hardware Operations For Sending An Acknowledgement For An Anticipated Frame As Required By Dependent Claim 31**

Claim 31 depends from independent claim 2, and so patentably defines over *Hioe* at least by virtue of this dependence, and for the reasons set forth above in connection with claim 2.

Moreover, claim 31 requires that the hardware operations include **determining when a frame was anticipated and sending an acknowledgement message corresponding thereto.**

The Office Action points to col. 5, lines 63-66, which refer to operations of control section 204a, which includes a processor for performing software operations. Accordingly, even if, *arguendo*, these operations correspond to the claimed acknowledgement block, they are not implemented by hardware, and thus do not meet the explicit requirements of the claims.

Moreover, col. 5, lines 63-66 merely suggest sending a **test signal** for supervising line quality, and teaches nothing about sending an **acknowledgement message corresponding to reception of an anticipated frame**, as explicitly required by the claims.

The Advisory Action (at page 7) responds only to this last point by stating:

At col. 5, lines 63-66, Hioe et al discloses a feedback loop for cyclically supervising the line quality is formed by transmitting data and a test signal and returning error rate information of the transmitted data corresponding to the claimed limitation.

However, this passage relates only to *Hioe*'s operation of monitoring a control channel and changing transmission conditions in accordance with line quality. There is no acknowledgment message sent in connection with the test data or signal. It is just used by the control section 204a to adjust the transmission conditions (e.g. data rate, error control method and/or size of wireless packet). Moreover, this position is still inconsistent with the claims which require the operations to be implemented by hardware (control section 204a includes a processor that runs software).

For at least these additional reasons, claim 31 further patentably defines over *Hioe* and the rejection thereof should be withdrawn.

Hioe Does Not Disclose Hardware For Implementing Functions Of A MAC Sublayer In Accordance With IEEE 802.11 As Required By Dependent Claims 32-34

Claims 32, 33 and 34 depend from claims 1, 16 and 2, respectively. These claims patentably define over *Hioe* at least by virtue of their dependence on claims 1, 16 and 2 for reasons set forth above.

Moreover, each of these claims require **implementing certain functions of a MAC sublayer in accordance with IEEE 802.11.**

The Office Action merely points to a passage in *Hioe* that refers to a CDMA method, and states that “it is inherent that the invention is compliant with IEEE 802.11.” However, this does not address the requirements of the claims, which require hardware operations for **implementing certain functions of a MAC sublayer in accordance with IEEE 802.11.** Merely because *Hioe*’s module 201 can theoretically be adapted for use in a IEEE 802.11 system does not **necessarily** mean that those same elements of *Hioe* would implement certain MAC sublayer functions of IEEE 802.11 in hardware as required by the claims. As clearly set forth in the specification at, for example, page 1, line 13 to page 3, line 7, such functions were typically implemented in software prior to the present invention.

The Advisory Action responds at page 9 that:

There is no doubt that Hioe et al’s system must obey the above [IEEE-802.11b, IEEE-802.11a and IEEE-802.11g] protocols. The applicable frequency used in Hioe et al’s system is 2.4 GHz (col. 1, lines 33-35 and thereafter) reflected that of the IEEE 802.11 system. Thus it is concluded that Hioe et al. disclosed the claimed limitation. Moreover, IEEE 802.11 is a jointed venture of IEEE task force, not invented by the Applicants of the present patent application, made available to everyone.

As to the first position regarding *Hioe*’s “applicable frequency” of 2.4 GHz, this contrasts with the operating frequency of 802.11a, which is in or around 5.4 GHz. Accordingly, *Hioe*’s system is not necessarily applicable to 802.11a. Moreover, none of the 802.11 family of standards uses either CDMA or TDMA, as is taught by *Hioe*. In any event, the mere fact that *Hioe*’s module 201 is theoretically capable of being adapted for use with an 802.11 system, does

not necessarily mean that its components can be used to implement MAC layer functions as required by the claims. Indeed, there are many possible uses for the unlicensed 2.4 GHz ISM (Industrial, Scientific and Medical) spectrum, including microwave ovens, cordless phones and Bluetooth transceivers. None of these applications have any need for complying with IEEE 802.11.

As for the latter point about IEEE 802.11 being “available to everyone,” Appellants wholeheartedly agree. But that is irrelevant to whether the express claim limitations (which include various other limitations in combination with limitations of implementing certain frame processing operations of an IEEE 802.11 MAC sublayer) are met by *Hioe*.

For at least these additional reasons, claims 32-34 further patentably define over *Hioe* and the rejections thereof should be withdrawn.

***Hioe* Does Not Disclose Implementing All Components In A Single Integrated Circuit As Required By Dependent Claims 35-37**

Claims 35, 36 and 37 depend from claims 1, 16 and 2, respectively. These claims patentably define over *Hioe* at least by virtue of their dependence on claims 1, 16 and 2 for reasons set forth above.

Moreover, each of these claims require implementing their enumerated elements in a **single integrated circuit**.

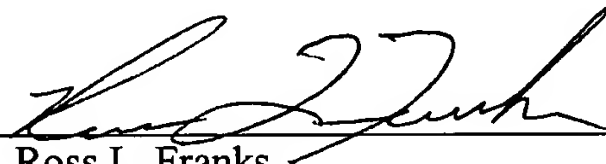
The Office Action merely points to a line in *Hioe* that suggests that the broadband radio system is a “digital system” comprising functional blocks. Nothing whatsoever discloses or suggests that the entire radio system is implemented as a **single integrated circuit**, much less the specifically enumerated blocks and functions explicitly required by the claims.

For at least these additional reasons, claims 35-37 further patentably define over *Hioe* and the rejections thereof should be withdrawn.

For the foregoing reasons, Appellants respectfully request that all the pending claims be deemed allowable by this honorable Board.

Respectfully submitted,
PILLSBURY WINTHROP SHAW PITTMAN LLP

Date: May 12, 2005



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CLAIMS APPENDIX

1. (Previously Presented) A hardware system for performing media access control functions between a host central processing unit and a network, the system comprising:
 - a buffer interface that sends frames to the host central processing unit and receives frames from the host central processing unit;
 - a frame transmitter that includes a transmit buffer that receives frames from the buffer interface and sends frames to the network;
 - a frame receiver that includes a receive buffer that receives frames from the network and sends frames to the buffer interface; and
 - an encryption/decryption block that sends and receives frames between the transmit buffer and the receive buffer.
2. (Previously Presented) A method for processing frames from a network to a host in a media access control layer, the method comprising:
 - receiving an incoming frame from the network; and
 - processing, using operations implemented by hardware in an integrated circuit, the incoming frame for time-critical functions, the time critical functions including:
 - sending an outgoing frame corresponding to the incoming frame to the host;
 - formulating time-critical responses;
 - accumulating statistics; and
 - updating a media access control state.
3. (Previously Presented) The hardware system according to claim 1 wherein the frame transmitter includes a transmit state machine, the frame receiver includes a receive state machine, and further including:
 - a cyclic redundancy code block that receives frames from the receive state machine and the transmit buffer and sends frames to the transmit state machine; and

a timer block that controls timing for frames that are respectively sent from and received by the system.

4. (Previously Presented) The hardware system according to claim 1 wherein the frame receiver further includes a filtering block for filtering frames.
5. (Previously Presented) The hardware system according to claim 1 wherein the frame receiver further includes a retry operations block for determining when retransmission of a particular frame is needed.
6. (Previously Presented) The hardware system according to claim 1 wherein the frame transmitter includes an acknowledgement block for determining that a particular frame was anticipated and sending an acknowledgement message corresponding thereto.
7. (Previously Presented) The hardware system according to claim 1 wherein the frame transmitter further includes a special frames generation block.
8. (Previously Presented) The hardware system according to claim 7 wherein the special frames generation block includes means for generating beacons.
9. (Previously Presented) The hardware system according to claim 1 further including a timer block that controls timing for frames that are sent from and received by the system.
10. (Previously Presented) The hardware system according to claim 9 wherein the frame transmitter includes a transmit state machine, the frame receiver includes a receive state machine, and further including:

a cyclic redundancy code block that receives frames from the receive state machine and the transmit buffer and sends frames to the transmit state machine.
11. (Previously Presented) The hardware system according to claim 9 wherein the frame receiver further includes a filtering block for filtering frames.

12. (Previously Presented) The hardware system according to claim 9 wherein the frame receiver further includes a retry operations block for determining whether retransmission of a particular frame is needed.
13. (Previously Presented) The hardware system according to claim 9 wherein the frame transmitter includes an acknowledgement block for determining that a particular frame was anticipated and sending an acknowledgement message corresponding thereto.
14. (Previously Presented) The hardware system according to claim 9 wherein the frame transmitter further includes a special frames generation block.
15. (Previously Presented) The hardware system according to claim 14 wherein the special frames generation block includes means for generating beacons.
16. (Previously Presented) A hardware system for performing media access control functions between a host central processing unit and a network, the system comprising:
- a buffer interface that sends frames to the host central processing unit and receives frames from the host central processing unit;
 - a frame transmitter that includes a transmit buffer that receives frames from the buffer interface and sends frames to the network;
 - a frame receiver that includes a receive buffer that receives frames from the network and sends frames to the buffer interface; and
 - a timer block that controls timing for frames that are sent from and received by the system, the timer block thereby controlling interframe spacing and timing.
17. (Previously Presented) The hardware system according to claim 16 wherein the frame transmitter includes a transmit state machine, the frame receiver includes a receive state machine, and further including:
- a cyclic redundancy code block that receives frames from the receive state machine and the transmit buffer and sends frames to the transmit state machine.

18. (Previously Presented) The hardware system according to claim 16 wherein the frame receiver further includes a filtering block for filtering frames.
19. (Previously Presented) The hardware system according to claim 16 wherein the frame receiver further includes a retry operations block for determining whether retransmission of a particular frame is needed.
20. (Previously Presented) The hardware system according to claim 16 wherein the frame transmitter includes an acknowledgement block for determining that a particular frame was anticipated and sending an acknowledgement message corresponding thereto.
21. (Previously Presented) The hardware system according to claim 16 wherein the frame transmitter further includes a special frames generation block.
22. (Previously Presented) The hardware system according to claim 21 wherein the special frames generation block includes means for generating beacons.
23. (Previously Presented) The hardware system according to claim 16 further including an encryption/decryption block that sends and receives frames between the transmit buffer and the receive buffer.
24. (Previously Presented) The method according to claim 2 wherein the time critical function of formulating time-critical responses includes formulating an outgoing response frame for transmission to the network.
25. (Previously Presented) The method according to claim 24 wherein the time critical function of formulating an outgoing response frame includes transmitting the outgoing response frame to the network.
26. (Previously Presented) The method according to claim 25 wherein the hardware operations for transmitting the outgoing response frame include generating a special frame.

27. (Previously Presented) The method according to claim 26 wherein the special frame includes a beacon.
28. (Previously Presented) The method according to claim 26 wherein the hardware operation of formulating an outgoing response frame includes receiving an incoming frame from the host central processing unit corresponding to the outgoing response frame.
29. (Previously Presented) The method according to claim 2 wherein the time critical functions implemented by hardware operations include decrypting the incoming frame.
30. (Previously Presented) The method according to claim 2 wherein the time critical functions implemented by hardware operations include determining whether retransmission of a particular frame is needed.
31. (Previously Presented) The method according to claim 2 wherein the time critical functions implemented by hardware operations include determining whether a particular frame was anticipated and sending an acknowledgement message corresponding thereto.
32. (Previously Presented) The hardware system according to claim 1, wherein the buffer interface, frame transmitter, frame receiver and encryption/decryption block implement certain functions of a media access control (MAC) sublayer in accordance with IEEE 802.11.
33. (Previously Presented) The hardware system according to claim 16, wherein the buffer interface, frame transmitter, frame receiver and timer block implement certain functions of a media access control (MAC) sublayer in accordance with IEEE 802.11.
34. (Previously Presented) The method according to claim 2, wherein the time-critical functions comprise certain functions of a media access control (MAC) sublayer in accordance with IEEE 802.11.

35. (Previously Presented) The hardware system according to claim 1, wherein the buffer interface, frame transmitter, frame receiver and encryption/decryption block are together comprised of a single integrated circuit.

36. (Previously Presented) The hardware system according to claim 16, wherein the buffer interface, frame transmitter, frame receiver and timer block are together comprised of a single integrated circuit.

37. (Previously Presented) The method according to claim 2, wherein the integrated circuit is comprised of a single integrated circuit.